

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 484 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DIVISIONAL CONTROLLER GSRTC

Versus

MANGALBHAI BABABHAI BARAIYA

Appearance:

MR HARDIK C RAWAL for Petitioner
SERVED for Respondent No. 1

CORAM : MR.JUSTICE S.D.SHAH

Date of decision: 30/07/96

ORAL JUDGEMENT

1. Rule. Mr.H.K.Rathod appears and waives service of rule on behalf of respondent. With the consent of learned advocates appearing for the parties matter is heard and finally decided today.
2. The labour court has vide its judgment and award dated 16th May, 1995 partially granted the reference

ordering reinstatement of workman in service and the workman is already reinstated in service as Conductor with effect from 9.2.96. The labour court has also granted 50% backwages and continuity of service. The findings recorded by the authority during the departmental enquiry were not challenged nor was the procedure followed at the departmental enquiry under challenge before the labour court. The only question was one of punishment. Labour court found that the punishment of dismissal from service was too harsh and therefore it substituted the same by setting aside the order of dismissal ordering his reinstatement with 50% backwages. Mr.Hardik Rawal for petitioner has, however, submitted that the award of 50% backwages is excessive. It would work out approximately to payment of full salary of one year. On the other hand, Mr.Rathod has contended that in fact when the penalty is set aside the award of backwages is within the discretion of the labour court. In the alternative, he has submitted that if another minor punishment is imposed that would meet the ends of justice. For this reliance is placed upon the decision of the learned single judge of this court reported in 1985 GLH 940 and if the very procedure is followed in this case also the learned counsel appearing for parties have no objection. In that view of the matter the award of 50% of backwages is maintained but punishment of withholding of two increments without future cumulative effect is imposed. The award stands modified to the aforesaid extent only. Rule is made absolute to the aforesaid extent. No costs.

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